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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,110	07/20/2001	Peter V. Loeppert	1864 P 071	1681

7590 11/03/2004

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EXAMINER

LE, HUYEN D

ART UNIT PAPER NUMBER

2643

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/910,110

Applicant(s)

LOEPPERT ET AL.

Examiner

HUYEN D. LE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 5-8, 10, and 12-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Bernstein (U.S. patent 5,452,268).

Regarding claim 1, Bernstein teaches a raised microstructure that comprises a generally planar thin film (12), and a sidewall (figure 1) having at least one rib (22) formed therein.

Regarding claims 3, 5, 10, and 12, Bernstein shows the rib (22) as claimed (figures 1 and 3).

Regarding claims 6 and 7, Bernstein teaches the thin film (12) that comprises a plate of a silicon based capacity transducer and a rigid backplate of a silicon based microphone as claimed.

Regarding claim 8, Bernstein teaches a silicon based electret microphone that comprises a generally planar thin film (12), and a sidewall (figure 1) having at least one rib (22) formed therein.

Regarding claims 13-14, Bernstein shows the sidewall that includes a plurality of ribs (22, figure 3).

Regarding claim 15, Bernstein teaches a raised microstructure that comprises a generally planar element (12) with a first thickness and a periphery, and a sidewall (figure 1) with a second thickness. As shown in figure 1, the sidewall supports the planar

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element at the periphery above a substrate (18) at a distance as claimed having at least one rib (22) formed therein.

Regarding claim 16, Bernstein shows the first thickness of the planar element (12) that is small compared to the lateral extent as claimed (figure 1).

Regarding claim 17, Bernstein shows the second thickness of the sidewall (22, figure 1) that is approximately equal to the first thickness of the planar element (12).

Regarding claim 18, Bernstein shows the distance as claimed (figure 1).

3. Claims 1-3, 5-10, 12-18 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Loeppert et al. (U.S. patent 5,870,482).

Regarding claim 1, Loeppert teaches a raised microstructure that comprises a generally planar thin film (12), and a sidewall (figures 1, 10) having at least one rib formed therein.

Regarding claims 2-3, 5, 9-10 and 12, Loeppert shows the rib as claimed (see figures 1 and 10).

Regarding claims 6 and 7, Loeppert teaches the thin film (12) that comprises a plate of a silicon based capacity transducer and a rigid backplate of a silicon based microphone as claimed.

Regarding claim 8, Loeppert teaches a silicon based electret microphone that comprises a generally planar thin film (12), and a sidewall (figures 1, 10) having at least one rib formed therein.

Regarding claims 13-14, Loeppert shows the sidewall that includes a plurality of ribs (figures 1, 10).

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Regarding claim 15, Loepper teaches a raised microstructure that comprises a generally planar element (12) with a first thickness and a periphery, and a sidewall (figure 1) with a second thickness. As shown in figures 1 and 1a, the sidewall supports the planar element at the periphery above a substrate (16) at a distance as claimed having at least one rib formed therein.

Regarding claim 16, Loepper shows the first thickness of the planar element (12) that is small compared to the lateral extent as claimed (figures 1, 1a).

Regarding claim 17, Loepper shows the second thickness of the sidewall that is approximately equal to the first thickness of the planar element.

Regarding claim 18, Loepper shows the distance as claimed (figure 1).

Regarding claims 21-23, as broadly claimed, Loepper shows the sidewall having the rib (figures 1 and 10). As shown in the drawings, the sidewall substantially completely encloses the area beneath the film.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under

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37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2, 4, 9, 11 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernstein (U.S. patent 5,452,268).

Regarding claims 2, 4, 9, 11 and 19-20, Bernstein does not specifically show the sidewall (22) as claimed in claims 1, 4, 9, 11 and 19-20. However, Bernstein does not restrict to any shape for the footings means or the sidewall (22).

Therefore, it would have been obvious to one skilled in the art to provide any configuration for the sidewall (22) such as the corrugated, triangular cross section or a periodic path of the periphery that has a generally arcuate cross section as claimed for the desired purpose of better supporting the planar member (12) on the insulating layer and the substrate.

Regarding claims 21-23, Bernstein does not specifically show the sidewall or footings (22, figures 1 and 3) to be constructed for substantially completely enclosing the area beneath the thin film. However, Bernstein does not restrict to any shape or the numbers of the footings means or the sidewall (22).

Therefore, it would have been obvious to one skilled in the art to provide any configuration or any numbers of the sidewall (22) such as to be constructed for substantially completely enclosing the area beneath the film for the desired purpose of better supporting the planar member (12) on the insulating layer and the substrate.

Response to Arguments

6. Applicant's arguments filed 07/02/2004 have been fully considered but they are not persuasive.

Responding to the arguments about that Bernstein does not disclose a planar film supported by a sidewall or the footings in Bernstein do not constitute a sidewall, the Applicant should note that since claims do not claim a specific structure for the sidewall, as broadly claimed, the means of footings (22) can be read as a sidewall that supports the film as claimed (figure 1).

Responding to the arguments about that Loeppert does not disclose a sidewall having at least one rib formed therein, the Applicant should note figures 1 and 10 that show a rib at the edge of the thin film (12).

Responding to the arguments about claims 2, 4, 9, 11, 19 and 20 in Bernstein, as mentioned above in the Office Action, since Bernstein does not restrict to any size or shape or the numbers of footings, it therefore would have been obvious to one skilled in the art to provide any size and shape for the sidewall or footings (22) for better supporting the film.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (703) 305-4844. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



HL
October 29, 2004



HUYEN LE
PRIMARY EXAMINER